



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/368,125	08/04/99	HAN T	11598/9-1276

QM32/0208
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EXAMINER

FIDEI, D

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 02/08/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/368,125

Applicant(s)

Tiang Fong HAN

Examiner

David T. Fidei

Group Art Unit

3728



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-12 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-12 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Any drawings submitted will not be reviewed for formality until **after** the notice of allowance is mailed.

Direct any inquiries concerning drawing review to the Drawing Review Branch (703) 305-8026.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the tactile indicator means of different shaped portions must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 1 there appears to be insufficient structure recited as to what can be considered a carrier. The word "means" is preceded by the words "engagement" or "indicator" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967), see M.P.E.P § 2174. To the extent the specification only discloses a singular structural embodiment of the preferred constructional device, it is not known what constitutes the means recited much less equivalents thereof. In fact no equivalents are mentioned in the specification. The alternative language also renders the claim indefinite. Even to the extent that it is not known if information is conveyed about the carrier or the articles.

In claim 2 visual or tactile information is provided in part by different colors or shapes. It is inconceivable that different colors provides tactile information or perhaps it is uncertain what is meant by tactile information. It is also unclear what is encompassed by the caveat "or both". Both of what?

The remaining claims also include similar language that is also vague and indefinite that should be carefully reviewed. In claim 12 how can the freezing temperature define a baking parameter?

The second paragraph of 35 U.S.C. 112 requires a claim to particularly point out and distinctly claim the subject matter which applicant regards as his or her invention. Under *In re Hammock*, 166 USPQ 204 (CCPA 1970) and *In re Moore*, 169 USPQ 236 (CCPA 1971), claims must be analyzed to determine their metes and bounds so that it is clear from the claim language what subject matter the claims encompass. This analysis must be performed in light of the applicable prior art and the disclosure. The definiteness of the claims is important to allow others who wish to enter the market place to ascertain the boundaries of protection that are provided by the claims. *Ex parte Kristensen*, 10 USPQ 2d 1701, 1703 (PTO Bd. Pat. App. & Intf. 1989).

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Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. Claims 1-3 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Conboy et al (Patent no. 5,560,775). Engagement means are defined by the rails forming carrier along with indicator means 34, 36.

8. Claims 1 and 4-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Fantone (Patent no. 5,769,227). See figure 32a where two parts 300 define an indicator means attached to a "carrier" to the extent claimed. At least one recess 312 is provided to ensure "correct" engagement.

9. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Gregerson et al (Patent no. 5,476,176). See figure 7, #54.

Conclusion

10. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703)

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308-1148. Facsimile correspondence for this application should be sent to (703) 305-3580 or (703) 305-3579 (**FORMAL FAXES ONLY**).

11. If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such paper should be direct to Valerie Douglas (703) 308-1337. Other inquiries such as fee questions, deposit account errors, or other general questions should be directed to Tech Center 3700 Customer Service at (703) 308-5648.

dtf
February 7, 2001


DAVID T. FIDEI
PRIMARY EXAMINER